

## Calendar No. 1004

110TH CONGRESS  
2D SESSION**S. 3179**

To authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2008

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Insert the part printed in italic]

---

**A BILL**

To authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Lovelace Respiratory  
5       Research Institute Land Conveyance Act”.

1 **SEC. 2. DEFINITION.**

2 In this Act:

3 (1) INSTITUTE.—The term “Institute” means  
4 the Lovelace Respiratory Research Institute, a non-  
5 profit organization chartered under the laws of the  
6 State of New Mexico.

7 (2) MAP.—The term “map” means the map en-  
8 titled “Lovelace Respiratory Research Institute  
9 Land Conveyance” and dated March 18, 2008.

10 (3) SECRETARY CONCERNED.—The term “Sec-  
11 retary concerned” means—

12 (A) the Secretary of Energy, with respect  
13 to matters concerning the Department of En-  
14 ergy;

15 (B) the Secretary of the Interior, with re-  
16 spect to matters concerning the Department of  
17 the Interior; and

18 (C) the Secretary of the Air Force, with  
19 respect to matters concerning the Department  
20 of the Air Force.

21 (4) SECRETARY OF ENERGY.—The term “Sec-  
22 retary of Energy” means the Secretary of Energy,  
23 acting through the Administrator for the National  
24 Nuclear Security Administration.

1 **SEC. 3. CONVEYANCE OF LAND.**

2 (a) IN GENERAL.—Notwithstanding section 120(h)  
3 of the Comprehensive Environmental Response, Com-  
4 pensation, and Liability Act of 1980 (42 U.S.C. 9620(h))  
5 and subject to valid existing rights and this Act, the Sec-  
6 retary of Energy, in consultation with the Secretary of the  
7 Interior and the Secretary of the Air Force, may convey  
8 to the Institute, on behalf of the United States, all right,  
9 title, and interest of the United States in and to the parcel  
10 of land described in subsection (b) for research, scientific,  
11 or educational use.

12 (b) DESCRIPTION OF LAND.—The parcel of land re-  
13 ferred to in subsection (a)—

14 (1) is the approximately 135 acres of land iden-  
15 tified as “Parcel A” on the map;

16 (2) includes any improvements to the land de-  
17 scribed in paragraph (1); and

18 (3) excludes any portion of the utility system  
19 and infrastructure reserved by the Secretary of the  
20 Air Force under subsection (d).

21 (c) OTHER FEDERAL AGENCIES.—The Secretary of  
22 the Interior and the Secretary of the Air Force shall com-  
23 plete any real property actions, including the revocation  
24 of any Federal withdrawals of the parcel conveyed under  
25 subsection (a) and the parcel described in section (4)(a),  
26 that are necessary to allow the Secretary of Energy to—

- 1 (1) convey the parcel under subsection (a); or
- 2 (2) transfer administrative jurisdiction under
- 3 section 4.

4 (d) RESERVATION OF UTILITY INFRASTRUCTURE  
 5 AND ACCESS.—The Secretary of the Air Force may retain  
 6 ownership and control of—

- 7 (1) any portions of the utility system and infra-
- 8 structure located on the parcel conveyed under sub-
- 9 section (a); and
- 10 (2) any rights of access determined to be nec-
- 11 essary by the Secretary of the Air Force to operate
- 12 and maintain the utilities on the parcel.

13 (e) RESTRICTIONS ON USE.—

14 (1) AUTHORIZED USES.—The Institute shall  
 15 allow only research, scientific, or educational uses of  
 16 the parcel conveyed under subsection (a).

17 (2) REVERSION.—

18 (A) IN GENERAL.—If, at any time, the  
 19 Secretary of Energy, in consultation with the  
 20 Secretary of the Air Force, determines, in ac-  
 21 cordance with subparagraph (B), that the par-  
 22 cel conveyed under subsection (a) is not being  
 23 used for a purpose described in paragraph  
 24 (1)—

1 (i) all right, title, and interest in and  
2 to the entire parcel, or any portion of the  
3 parcel not being used for the purposes,  
4 shall revert, at the option of the Secretary,  
5 to the United States; and

6 (ii) the United States shall have the  
7 right of immediate entry onto the parcel.

8 (B) REQUIREMENTS FOR DETERMINA-  
9 TION.—Any determination of the Secretary  
10 under subparagraph (A) shall be made on the  
11 record and after an opportunity for a hearing.

12 (f) COSTS.—

13 (1) IN GENERAL.—The Secretary of Energy  
14 shall require the Institute to pay, or reimburse the  
15 Secretary concerned, for any costs incurred by the  
16 Secretary concerned in carrying out the conveyance  
17 under subsection (a), including any survey costs re-  
18 lated to the conveyance.

19 (2) REFUND.—If the Secretary concerned col-  
20 lects amounts under paragraph (1) from the Insti-  
21 tute before the Secretary concerned incurs the actual  
22 costs, and the amount collected exceeds the actual  
23 costs incurred by the Secretary concerned to carry  
24 out the conveyance, the Secretary concerned shall re-

1 fund to the Institute an amount equal to difference  
 2 between—

3 (A) the amount collected by the Secretary  
 4 concerned; and

5 (B) the actual costs incurred by the Sec-  
 6 retary concerned.

7 (3) DEPOSIT IN FUND.—

8 (A) IN GENERAL.—Amounts received by  
 9 the United States under this subsection as a re-  
 10 imbursement or recovery of costs incurred by  
 11 the Secretary concerned to carry out the con-  
 12 veyance under subsection (a) shall be deposited  
 13 in the fund or account that was used to cover  
 14 the costs incurred by the Secretary concerned  
 15 in carrying out the conveyance.

16 (B) USE.—Any amounts deposited under  
 17 subparagraph (A) shall be available for the  
 18 same purposes, and subject to the same condi-  
 19 tions and limitations, as any other amounts in  
 20 the fund or account.

21 (g) CONTAMINATED LAND.—In consideration for the  
 22 conveyance of the parcel under subsection (a), the Insti-  
 23 tute shall—

24 (1) take fee title to the parcel and any improve-  
 25 ments to the parcel, as contaminated;

1           (2) be responsible for undertaking and com-  
2           pleting all environmental remediation required at, in,  
3           under, from, or on the parcel for all environmental  
4           conditions relating to or arising from the release or  
5           threat of release of waste material, substances, or  
6           constituents, in the same manner and to the same  
7           extent as required by law applicable to privately  
8           owned facilities, regardless of the date of the con-  
9           tamination or the responsible party;

10          (3) indemnify the United States for—

11                (A) any environmental remediation or re-  
12                sponse costs the United States reasonably in-  
13                curs if the Institute fails to remediate the par-  
14                cel; or

15                (B) contamination at, in, under, from, or  
16                on the land, for all environmental conditions re-  
17                lating to or arising from the release or threat  
18                of release of waste material, substances, or con-  
19                stituents;

20          (4) indemnify, defend, and hold harmless the  
21          United States from any damages, costs, expenses, li-  
22          abilities, fines, penalties, claim, or demand for loss,  
23          including claims for property damage, personal in-  
24          jury, or death resulting from releases, discharges,  
25          emissions, spills, storage, disposal, or any other acts

1 or omissions by the Institute and any officers,  
2 agents, employees, contractors, sublessees, licensees,  
3 successors, assigns, or invitees of the Institute arising from activities conducted, *on or after October 1,*  
4 *1996,* on the parcel conveyed under subsection (a);  
5 and  
6

7 (5) reimburse the United States for all legal  
8 and attorney fees, costs, and expenses incurred in  
9 association with the defense of any claims described  
10 in paragraph (4).

11 (h) CONTINGENT ENVIRONMENTAL RESPONSE OBLI-  
12 GATIONS.—If the Institute does not undertake or complete  
13 environmental remediation as required by subsection (g)  
14 and the United States is required to assume the respon-  
15 sibilities of the remediation, the Secretary of Energy shall  
16 be responsible for conducting any necessary environmental  
17 remediation or response actions with respect to the parcel  
18 conveyed under subsection (a).

19 (i) NO ADDITIONAL COMPENSATION.—Except as oth-  
20 erwise provided in this Act, no additional consideration  
21 shall be required for conveyance of the parcel to the Insti-  
22 tute under subsection (a).

23 (j) ACCESS AND UTILITIES.—On conveyance of the  
24 parcel under subsection (a), the Secretary of the Air Force  
25 shall, on behalf of the United States and subject to any



1 terms and conditions as the Secretary determines to be  
2 necessary (including conditions providing for the reim-  
3 bursement of costs), provide the Institute with—

4 (1) access for employees and invitees of the In-  
5 stitute across Kirtland Air Force Base to the parcel  
6 conveyed under that subsection; and

7 (2) access to utility services for the land and  
8 any improvements to the land conveyed under that  
9 subsection.

10 (k) **ADDITIONAL TERM AND CONDITIONS.**—The Sec-  
11 retary of Energy, in consultation with the Secretary of the  
12 Interior and Secretary of the Air Force, may require any  
13 additional terms and conditions for the conveyance under  
14 subsection (a) that the Secretaries determine to be appro-  
15 priate to protect the interests of the United States.

16 **SEC. 4. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

17 (a) **IN GENERAL.**—After the conveyance under sec-  
18 tion 3(a) has been completed, the Secretary of Energy  
19 shall, on request of the Secretary of the Air Force, trans-  
20 fer to the Secretary of the Air Force administrative juris-  
21 diction over the parcel of approximately 7 acres of land  
22 identified as “Parcel B” on the map, including any im-  
23 provements to the parcel.

24 (b) **REMOVAL OF IMPROVEMENTS.**—In concurrence  
25 with the transfer under subsection (a), the Secretary of

- 1 Energy shall, on request of the Secretary of the Air Force,
- 2 arrange and pay for removal of any improvements to the
- 3 parcel transferred under that subsection.



**Calendar No. 1004**

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 3179**

**A BILL**

To authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

SEPTEMBER 16, 2008

Reported with an amendment